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Attorney Docket No. ALL.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	GERBER	}	EXAMINER:	HARTLEY, M.G.
SERIAL NO.:	10/082,130		ART UNIT:	1616
FILED:	FEBRUARY 25, 2002		CONF. NO.:	1005
TITLE:	METHODS AND REAGENTS FOR MRI IMAGE ENHANCEMENT			

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

An Office Action was mailed in the above-captioned application on September 27, 2004. In such Office Action claims 1-30 were pending. Claims 1-30 were subject to restriction/election requirement. This Response to Restriction Requirement document is submitted in response to said Office Action.

An election requirement was made to pending claims 1-30. The claims were placed into six groups:

Group I (claims 1-6) drawn to a method for measuring blood oxygen level-dependent MRI signal;

Group II (claims 7-12) drawn to a method of increasing cell sensitivity to cytotoxic effects;

Group III (claims 13-19) drawn to a method of measuring tumor oxygenation;

Group IV (claims 20-22) drawn to a method of determining the optimal time for radiation therapy;

Group V (claims 23-25) drawn to a method of diagnosing abnormal pathology by MRI;
and

37 CFR 1.8
CERTIFICATE OF MAILING

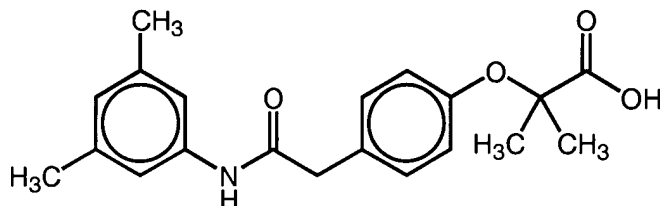
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 23, 2004.

Signature: *Tasha L. Pierce*
Name: Tasha L. Pierce

Group VI (claim 26-30) drawn to a method of imaging glioblastoma.

Applicant hereby elects to prosecute the invention of Group I, claims 1-6. Applicant also elects the allosteric effector compound 2-[4-[2-[(3,5-dimethylphenyl)amino]-2-oxoethyl]phenoxy]-2-methyl-propionic acid:



as the species to be examined. Claims reading on this compound are claim 1-3 in part, and claims 4-6. This election is made with traverse. Specifically, Applicant traverses the restriction of Groups I and III. Claims of Group III reading on the elected species are claims 13-16 (in part) and claims 17-19.

As stated in MPEP § 803, “[t]here are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent ... or distinct as claimed...; and (B) There must be a serious burden on the examiner if restriction is required....”.

Applicants concur with the Examiner that the six groups of claims are directed to patentably distinct inventions; however, Applicants respectfully disagree that an examination or search of the invention of Group I and Group III would constitute a serious undue burden on the Examiner. The Examiner states that the inventions are unrelated; however, the method of Group III is merely a specific application of the method of Group I. The search for Group I and Group III, therefore, appear to be highly co-extensive and should not constitute a serious undue burden on the Examiner.

Applicants therefore submit that restriction among Groups I and III is improper and respectfully request examination of claims 1-6 and 13-19.

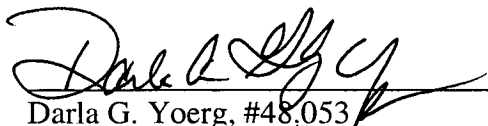
Closing Remarks

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: November 23, 2004



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